

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

MICHAEL A. JOHNSON,
Plaintiff,
v.
RIVERO, et al.,
Defendants.

Case No. 14-cv-03231-JSC (PR)

ORDER OF DISMISSAL

RIVERO, et al.,
Defendants.

Plaintiff, a California prisoner, filed this pro se civil rights complaint under 42 U.S.C. § 1983 claiming that Defendants violated his constitutional rights in a variety of ways during the criminal proceedings that led to his current incarceration. He seeks two forms of relief: to be released from custody, and “unlimited” monetary damages. His claims for release from custody must be brought in a petition for a writ of habeas corpus, *see Skinner v. Switzer*, 131 S. Ct. 1289, 1293 (2011) (habeas is the “exclusive remedy” for the prisoner who seeks “immediate or speedier release” from confinement), after the claims have been fairly presented to the California Supreme Court, *see* 28 U.S.C. § 2254(b), (c) (requiring habeas claims be fairly presented to highest state court before they may be considered by federal court). Plaintiff’s claims for money damages based on constitutional violations that led to his conviction and current incarceration may not be considered until his conviction and sentence have been has been reversed on direct appeal, expunged by executive order, declared invalid by a state tribunal authorized to make such determination, or called into question by a federal court's issuance of a writ of habeas corpus. *See Heck v. Humphrey*, 512 U.S. 477, 486-487 (1994).

Accordingly, the complaint is DISMISSED without prejudice to Plaintiff filing: (1) a petition for a writ of habeas corpus raising his claims for release from custody, after such claims have been fairly presented to the California Supreme Court, and (2) a new civil rights complaint seeking money if and when his state court conviction and sentence are invalidated as described above. Plaintiff is granted leave to proceed *in forma pauperis* in a separate order.

IT IS SO ORDERED.

Dated: August 1, 2014

Jacqueline S. Corley
JACQUELINE SCOTT CORLEY
United States Magistrate Judge

United States District Court
Northern District of California